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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,017	02/10/2004	Jon C. Alexander	076565-0135	9075
26371	7590	09/27/2006	EXAMINER	
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			MOHANDESI, JILA M	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

Office Action Summary	Application No.	Applicant(s)	
	10/776,017	ALEXANDER ET AL.	
	Examiner	Art Unit	
	Jila M. Mohandes	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-12 and 18-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong (5,366,104) in view of Luburic (Pub. No. US 2002/0148846). Armstrong '104 discloses a hermetic storage system for containing wipes comprising: a flexible container (11) having a collar (flange 21 which extends outwardly away from outboard edge and has a generally upwardly facing surface 22 edge) having a first connector (rolled over section 19) surrounding an aperture; and an impermeable cover member (12) having a second connector (27); wherein the first connector includes one of a groove and a key and the second connector includes the other one of the groove and the key; wherein the groove includes a first peripheral wall and a second peripheral wall, at least one of the first peripheral wall and the second peripheral wall being flexible and wherein the first peripheral wall includes an indentation and protrusion (see Figures 7-9 embodiments); and wherein the first connector and the second connector may be releasably engaged to provide a hermetic seal. See Figures 1-2 and 7-9 embodiments and column 2, lines 61-67 and column 3, lines 20-38. Armstrong '104 does not appear to teach the key to have a width greater than the distance between the protrusion and the second peripheral wall of the groove

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and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion and the second peripheral wall. Luburic discloses a hermetic storage system where the key has a width greater than the distance between the protrusion and the second peripheral wall of the groove and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion and the peripheral wall for easier and tighter snapping action to provide a tighter hermetic seal (See Figures 6 and 7 embodiments and paragraph 0031). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a key and groove arrangement with the key having a width greater than the distance between the protrusion and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion to the container of Armstrong '104 as taught by Luburic to provided a better and tighter hermetic seal when the lid is closed on the body container.

Claims 35-41 are directed to the obvious method of making the hermetic container of Armstrong as modified above.

With respect to claims 8 and 38, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the cover independent from the collar, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

With respect to claims 9 and the shape of the container, it would have been an obvious matter of design choice to modify the shape of the container, since such a

modification would have involved a mere change in the shape of a component which is only ornamental in function. A change in shape is generally recognized as being within the level of ordinary skill in the art and will not change the function of the container. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

With respect to the material of the container, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

4. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references as applied to claim 1 above, and further in view of Ishikawa et al. (5,699,912). Armstrong '104 as modified above discloses all the limitations of the claims except for the second member defining a second aperture and a third member releasably engaging with the second member to form a continuous hermetic seal around the second aperture. Ishikawa '912 discloses a hermetic storage system for containing wipes where the second member defining a second aperture and a third member releasably engaging with the second member to form a continuous hermetic seal around the second aperture for allowing the wipes to be individually picked out and maintaining the remaining wipes in a sterilized condition. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the second member of Armstrong '104 with a second aperture and a third member releasably engaging with the second member to form a continuous hermetic seal around the second aperture as taught by Ishikawa '912 for allowing the wipes to be individually picked out and maintaining the remaining wipes in a sterilized condition.

Response to Arguments

5. Applicant's arguments filed July 05, 2006 have been fully considered but they are not persuasive. Contrary to applicant's argument the Armstrong reference clearly discloses a collar coupled to an opened end of the container as described above.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jila M Mohandesi
Primary Examiner
Art Unit 3728

JMM
September 18, 2006